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FOLTEL FM GENEVA 25 JUL 73 SENT ACTION SECSTATE
INFO LONDON, OTTAWA, AND USMISSION USUN REPEATED TO YOU

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UNCLAS GENEVA 3894

LONDON FOR US DEL TO IMCO

E.O. 11652: N/A
TAGS: PBOR, UN
SUBJ: LOS: SEABEDS COMMITTEE: WORKING GROUP 2
OF SUBCMTE III- MARINE POLLUTION, JULY 24

1. SUMMARY: NORWAY INTRODUCED DRAFT ARTICLES ON
MARINE POLLUTION. US EXPLAINED MEPC PROPOSAL, SUP-
PORTED EXCLUSIVELY INTERNATIONAL STANDARDS WITH ADDI-
TIONAL RIGHT OF FLAG AND PORT STATES. CANADA REITERATED
OPPOSITION TO US POSITION. PRC SUPPORTED COASTAL
STATE RIGHT OVER SEABED SOURCES OF POLLUTION. ITEM 5.5,
PART A: STANDARDS: PRESCRIPTION AND IMPLEMENTATION WAS
REFERRED TO INFORMAL DRAFTING GROUP AFTER A CONTENTIOUS
PROCEDURAL DEBATE.

2. NORWAY INTRODUCED WORKING PAPER: DRAFT ARTICLES
ON THE PROTECTION OF THE MARINE ENVIRONMENT AGAINST
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POLLUTION (A/AC.138/SC III/L.43-POUCHED SEPARATELY)
ARTICLES CONTAIN GENERAL OBLIGATION OF STATES TO

PROTECT MARINE ENVIRONMENT AND A GENERAL OBLIGATION OF STATES TO PROTECT MARINE ENVIRONMENT AND A GENERAL OBLIGATION OF COOPERATION. THERE ARE SPECIFIC ARTICLES ON POLLUTION FROM: LAND-BASED SOURCES (OBLIGATION TO CONTROL, ETC, SUCH ACTIVITIES WITHIN THEIR TERRITORY WHICH MAY LEAD TO OR CONTRIBUTE TO POLLUTION OF THE MARINE ENVIRONMENT), VESSELS, EXPLORATION AND EXPLOITATION ACTIVITIES WITHIN AND BEYOND NATIONAL JURISDICTION AND DUMPING. BEFORE A STATE OR PERSON WITHIN ITS JURISDICTION UNDERTAKES AN ACTIVITY WHICH MAY LEAD TO SIGNIFICANT ALTERATION OF THE MARINE ENVIRONMENT, THAT STATE SHALL FILE AN ENVIRONMENTAL IMPACT STATEMENT WITH THE INTERNATIONAL ORGANIZATION (UN AGENCY) CONCERNED. FLAG STATES SHALL ENFORCE EXISTING REGULATIONS AGAINST THEIR FLAG VESSELS. ARTICLE XVIII- JURISDICTION AND POWERS OF COASTAL STATES HAS NOT, RPT NOT BEEN DRAFTED. STATES RESPONSIBILITY IS BASED ON EXISTING INTERNATIONAL LAW. ARTICLES ARE SILENT ON PEACEFUL SETTLEMENT OF DISPUTES SINCE OTHER ARTICLES IN CONVENTION MAY COVER ISSUE.

3. US EXPLAINED MEPC PROPOSAL AND STRESSED THAT IMCO COUNCIL HAS BEEN ONLY ASKED TO ESTABLISH A NEW CMTE, WITH AN OPEN MEMBERSHIP. IMCO CONFERENCE WILL DECIDE UPON PROCEDURES FOR ADOPTING NEW REGULATIONS, STANDARDS ETC. BY MEPC. PROPOSAL DOES NOT RPT NOT PREJUDICE LOS SINCE IT IS SILENT ON RESIDUAL RIGHTS OF COASTAL STATES. US CHOSE IMCO TO MAKE STANDARDS FOR VESSELS SOURCE POLLUTION BECAUSE IT IS AN EXISTING ORGANIZATION AND HAS NECESSARY EXPERTISE. REP EXPLAINED DIFFERENCES BETWEEN FLAG AND PORT STATE AUTHORITY TO ESTABLISH STANDARDS ON THE ONE HAND AND COASTAL STATE AUTHORITY ON OTHER, I.E., (I) EXISTING LAW; (II) NEED TO AVOID CONFLICT; (III) PARTICIPATION IN DECISION MAKING BY THOSE WITH STAKE IN REGULATIONS; (IV) MEETING NEEDS OF COASTAL STATES (CITED US ARTICLES). STRESSED THAT THESE ISSUES GO TO HEART OF NAVIGATION INTERESTS BEYOND TERRITORIAL SEA.

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4. CANADA REITERATED OPPOSITION TO EXCLUSIVELY INTERNATIONAL STANDARDS. CANADIAN PROPOSALS IN IMCO DO NOT PREJUDICE LOS SINCE LOS WILL PRECISELY DEFINE THE WATERS WITHIN NATIONAL JURISDICTION. REP STATED THAT THEY ARE NOT RPT NOT OPPOSED TO NEW ROLE FOR IMCO, BUT QUESTIONED MEANING OF "CATEGORY OF STATES" IN PROPOSAL FOR ENTRY INTO FORCE OF AMENDMENTS. HE CHARACTERIZED PORTS AND WATERWAYS SAFETY ACT OF US AS AN ULTIMATUM THAT IF CERTAIN STANDARDS WERE NOT ADOPTED INTERNATIONALLY WITHIN A SPECIFIC PERIOD THE

US WOULD APPLY SUCH STANDARDS. US DRAFT ARTICLES DO NOT PERMIT COASTAL STATE PRESCRIPTIVE COMPETENCE IN TERRITORIAL SEA BUT ACT DOES. (US RESPONDED THAT ACT APPLIES ONLY TO LIMIT OF 3-MILE TERRITORIAL SEAS. MUST RELY ON GOOD FAITH OF COASTAL STATES.

5. MALTA REP SAID THAT IMCO DEALING WITH MARINE POLLUTION ON BASIS OF EXISTING LAW PREJUDICES LOS, AS DOES MEPC. PROPOSAL.

6. TANZANIA SPOKE IN FAVOR OF COASTAL STATE STANDARDS BUT INDICATED THAT STATES MIGHT DISCRIMINATE IN APPLICATION OF STANDARDS AGAINST VESSELS OF DIFFERENT STATES.

7. PRC SUPPORTED THE RIGHT OF THE COASTAL STATE TO ADOPT ALL MARINE POLLUTION MEASURES IN SEABED WITHIN THEIR JURISDICTION.

8. THERE WAS LENGTHY CONTENTIOUS PROCEDURAL DISCUSSION CONCERNING GROUP'S APPROACH TO ITEM 5.5 (REVISION 1) (POUCHED SEPARATELY), STANDARDS, JURISDICTION AND ENFORCEMENT. IT WAS DECIDED TO SUBMIT PART A, STANDARDS: PRESCRIPTION AND IMPLEMENTATION TO AN INFORMAL DRAFTING GROUP. DURING DISCUSSION ON PRECEDING DECISION CANADA STATED THAT US ARTICLES ADOPTED APPROACH DIFFERENT FROM THAT OF OTHER ARTICLES, WITH MANY US ARTICLES HAVING NO RPT NO COUNTERPART IN OTHER PROPOSALS. CANADIAN REP ASKED FOR GUIDANCE FROM WG (WHICH WAS NOT PROVIDED) AS TO HOW TO PROCEED. ON IMMEDIATE ISSUE HE STATED THAT US ARTICLE III, INTERNATIONAL STANDARDS IN GENERAL
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WOULD HAVE TO BE CONSIDERED UNDER REGIONAL AND GLOBAL COOPERATION (ITEM 5.4) AND NOT UNDER 5.5. (COMMENT: IT APPEARS THAT CANADA IS ATTEMPTING TO PRECLUDE FULL CONSIDERATION OF US PROPOSALS CONTRARY TO THEIR SUBSTANTIVE POSITIONS. IT NOT ENTIRELY CLEAR HOW DRAFTING GROUP WILL PROCEED.) CANADA SAID US ARTICLE III PRESUPPOSES NEW ROLE FOR IMCO (MEPC) OR IT DOES NOT. EITHER ALTERNATIVE IS UNACCEPTABLE. UK SUPPORTED STARTING DISCUSSION OF STANDARDS WITH INTERNATIONAL STANDARDS (AND INCIDENTALLY SUPPORTED UTILIZING IMCO AS SOURCE OF VESSEL STANDARDS). SOVIETS SUPPORTED CONSIDERATION OF ALL SOURCES OF POLLUTION UNDER 5.5 NOT RPT NOT MERELY VESSEL OR SEABED SOURCES.

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